

EXECUTIVE FARM MANAGEMENT

Tax Cuts and Jobs Act: Tax Reform 2017

Selected Items for Discussion

Guido van der Hoeven, EA
Extension Specialist / Sr. Lecturer
Dept. Agricultural and Resource Economics
NC State University

HMMMM.....

The difference between death and taxes is death doesn't get worse every time Congress meets.

-- Will Rogers



“Tax Cuts and Jobs Act”

- December 22, 2017, President Trump signed H.R. 1, the “Tax Cuts and Jobs Act” into law which now changes the taxation landscape for individuals and businesses.
- Continuing to digest and look for guidance of what it all means.
 - IRS
 - Treasury
 - Tax Professionals

Where to from here?

- A “Technical Corrections Bill” is in the works to address issues that emerged from the passage of the “Tax Cuts and Jobs Act”.
 - Guidance is still needed and expected.
 - US Gov’t shut down???
- The Treasury Department must issue rules and regulations pertinent to the new tax law, which are forthcoming.
- With leadership change in the House, tax law changes can be expected. Former W&M Chair Brady, released two additional tax reform bills...will have to wait to see whether these are debated.

Talk Topics

- Thoughts on Tax Management
- Farm Business Income (Schedule F)
- Tax Cuts and Jobs Act Changes Affecting Farming
- Getting to the “Sweet Spot”
- Tax Cuts and Jobs Act Changes Affecting Individuals
- Estate and Gift Tax Changes due to TCJA
- Succession Tax Planning

Thoughts on Tax Management



Should you want to **PAY** taxes?

- Yes!
- It means that you are making a profit.
- Uncle Sam will never take all your profit. (Max rate = 37%)
- However, you do not want to pay more than what is required under the tax law. (Do not leave a tip!)

Objective of Income Tax Management

- Maximize after-tax net income over time by reducing the tax bite associated with high income years.
- Must consider tax as a cost, like any other cost of doing business.
- Minimizing taxes can result in over-investment.
- Tax avoidance = Minimum legal tax
- Tax evasion = Jail
- Manage the business then manage income taxes.

Tax Planning & Management

- Year-round every day job.
- Basic tax law knowledge needed.
- When you don't know and ask questions.
- Ask “what if” rather than say ‘this is what I did’. (The oops cannot always be fixed.)
- Professional advice will likely be needed.
- Year-end tax planning is always useful (level taxable income over time).

2018 and 2019 Tax Rates

Ordinary Income	Capital Gain and Qualified Dividends ¹
10%	0%
12%	0%
22%	15%
24%	15%
32%	15%
35%	15%
37%	20%

¹Qualified dividends are dividends received from a domestic corporation or a qualified foreign corporation.

Progressive Tax System

- So a taxpayer filing as MFJ is in the 32 percent tax bracket, does this mean that couple is paying the US Treasury 32 percent of their taxable income?
- YES or NO?
- No!!! Must look at the “Effective Tax Rate”.

Effective Tax Rate

- Total Tax paid divided by Total Income from ALL sources.
- $\$75,379 \div 350,000 = 21.5\%$
- In other words, 21.5 percent of your income is used to pay the Federal income tax liability.
- Marginal tax rate is 32 percent.

Cash Method of Accounting

- Easy to keep and allows for income tax management.
- Include income in the year when actually received.
- Include expenses in the year when actually paid.
- Postpone income and/or prepay expenses to manage taxes. (Simply time when income is received and expenses are paid)

Annual Income Tax: Variable Income

Year	Taxable Income	Marginal Tax Rate	Tax Owed
2009	\$24,000	15%	\$2,469
2010	\$100,000	25%	\$17,353
2011	\$2,000	10%	\$201
2012	\$145,000	28%	\$28,379
2013	\$42,000	15%	\$5,411
2014	\$155,000	28%	\$30,647
2015	\$78,000	25%	\$11,043
Totals	\$546,000		\$95,803

Annual Income Tax: Steady Income

Year	Taxable Income	Marginal Tax Rate	Tax Owed
2009	\$78,000	25%	\$11,881
2010	\$78,000	25%	\$11,869
2011	\$78,000	25%	\$11,756
2012	\$78,000	25%	\$11,566
2013	\$78,000	25%	\$11,364
2014	\$78,000	25%	\$11,219
2015	\$78,000	25%	\$11,043
Totals	\$546,000		\$80,698

Tax Impact of Variable Income

- \$15,105 more tax paid due to income variability (\$95,803 - \$80,698)
- Income Tax Management evens out taxable income over time.
- Goal is to avoid the higher tax rates or brackets.
- Best to be in one bracket over a period of years.

Farm Business Income (Schedule F)

SCHEDULE F
(Form 1041)

Profit or Loss From Farming

OMB No. 1545-0047
2018
Department of the Treasury
Internal Revenue Service

Use Schedule F (Form 1041) to report farm income and expenses. File it with Form 1040, 1040NR, 1041, or 1042.

Your farming activity may subject you to state and local taxes and other requirements such as business licenses and fees. Check with your state and local governments for more information.

Additional information: Pub. 225 has more information and examples to help you complete your farm tax return. It also lists important dates that apply to farmers.

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments
For the latest information about developments related to Schedule F (Form 1041) and its instructions, such as legislation enacted after they were published, go to www.irs.gov/efile.

What's New
Business interest expense limitation. For tax years beginning after 2017, your business interest expense deduction may be limited. See Form 1041 and its instructions for details.
Deduction for qualified business income. For tax years beginning after 2017, you may be entitled to a deduction of up to 20 percent of your qualified business income from your qualified trade or business, plus 20 percent of the aggregate amount of qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (QPTP) income. The deduction is subject to various limitations such as limitations based on your type of trade or business, your taxable income, the amount of W-2 wages paid with respect to the trade or business, and the unadjusted basis immediately after acquisition of qualified property held by the trade or business. You will claim this deduction on Form 1041, and make other deductions. This deduction can be taken in addition to the standard or itemized deductions. For more information, see the instructions for Form 1041 and Pub. 939, *Business Expenses*.
Excess farm loss limitation. The excess farm loss rules don't apply in 2018. However, any loss from this activity that wasn't allowed on your business of the excess farm loss rules is treated as a deduction allowable in the activity in 2019. See Form 601 and its instructions for details on the amount of excess business loss limitations.
Net operating loss (NOL). An NOL can no longer be carried back to any tax year, unless the NOL is a farming loss. To the extent the NOL is a farming loss, you can carry back the NOL to each of the 2 tax years preceding the tax year of the loss. For additional information on NOLs for individuals, estates and trusts, and corporations, see Pub. 225 and 510.
Small business taxpayers. For tax years beginning after 2017, most small business taxpayers may be eligible to use the cash method.

Standard mileage rate. The standard mileage rate for business use of your vehicle for 2018 is 54.5 cents per mile.

Other Schedules and Forms You May Have To File
 * Schedule E (Form 1040), Part 1, to report rental income from personal-use real estate.
 * Schedule H (Form 1040), line 8, to report income received from taking care of someone who is unable to care for themselves.
 * Schedule K (Form 1041), to report farm rental income and expenses of a trust or estate based on crops or livestock produced by a trust.
 * Schedule J (Form 1040) to figure your tax by averaging your farm income over the previous 3 years. Doing so may reduce your tax.
 * Schedule SE (Form 1040) to pay self-employment tax on income from your farming business.
 * Form 8820 to claim any general business credits.
 * Form 6062 to claim depreciation (including the special allowance) on assets placed in service in 2018, to claim amortization that begins in 2018, to make an election under section 179 to expense certain property, or to report information on vehicles and other listed property.
 * Form 6084 to report a casualty or theft gain or loss involving farm business property, including purchased livestock held for draft, breeding, sport, or show purposes. See Pub. 225 for more information on how to report various farm losses, such as losses due to death of livestock or damage to crops or other farm property.
 * Form 6197 to report sales, exchanges, or involuntary conversions (other than from a casualty or theft) of certain farm property. Also see this form to report sales of livestock held for draft, breeding, sport, or show purposes.
 * Form 6250 to report rental income based on crops or livestock shares produced by a trust if you didn't materially participate in the management or operation of a farm. This income isn't subject to self-employment tax. See Pub. 225.
 * Form 6198 to figure your allowable loss if you have a business loss and you have accounts limited in the business for which you aren't an owner.

See the instructions for Schedule F (Form 1041) for more information.

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See the instructions for Schedule F (Form 1041) for more information.

Schedule F: Part 1 Income

**SCHEDULE F
(Form 1040)**

Profit or Loss From Farming

OMB No. 1545-0074

2018
Attachment
Sequence No. **14**

Department of the Treasury
Internal Revenue Service (99)

▶ Attach to Form 1040, Form 1040NR, Form 1041, or Form 1065.

▶ Go to www.irs.gov/ScheduleF for instructions and the latest information.

Name of proprietor

Social security number (SSN)

A Principal crop or activity

B Enter code from Part IV

C Accounting method:

D Employer ID number (EIN), (see instr)

Cash Accrual

E Did you "materially participate" in the operation of this business during 2018? If "No," see instructions for limit on passive losses Yes No

F Did you make any payments in 2018 that would require you to file Form(s) 1099 (see instructions)? Yes No

G If "Yes," did you or will you file required Forms 1099? Yes No

Part I Farm Income—Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 9.)

1a	Sales of livestock and other resale items (see instructions)	1a				
b	Cost or other basis of livestock or other items reported on line 1a	1b				
c	Subtract line 1b from line 1a				1c	
2	Sales of livestock, produce, grains, and other products you raised				2	
3a	Cooperative distributions (Form(s) 1099-PATR)	3a			3b	Taxable amount
4a	Agricultural program payments (see instructions)	4a			4b	Taxable amount
5a	Commodity Credit Corporation (CCC) loans reported under election				5a	
b	CCC loans forfeited	5b			5c	Taxable amount
6	Crop insurance proceeds and federal crop disaster payments (see instructions)					
a	Amount received in 2018	6a			6b	Taxable amount
c	If election to defer to 2019 is attached, check here <input type="checkbox"/>	6d	Amount deferred from 2017		6d	
7	Custom hire (machine work) income				7	
8	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)				8	
9	Gross income. Add amounts in the right column (lines 1c, 2, 3b, 4b, 5a, 5c, 6b, 6d, 7, and 8). If you use the accrual method, enter the amount from Part III, line 50. See instructions				9	

Schedule F: Expenses

Part II Farm Expenses – Cash and Accrual Method. Do not include personal or living expenses. See instructions.

10	Car and truck expenses (see instructions). Also attach Form 4562	10		23	Pension and profit-sharing plans	23	
11	Chemicals	11		24	Rent or lease (see instructions):		
12	Conservation expenses (see instructions)	12		a	Vehicles, machinery, equipment	24a	
13	Custom hire (machine work) .	13		b	Other (land, animals, etc.) . .	24b	
14	Depreciation and section 179 expense (see instructions) .	14		25	Repairs and maintenance . .	25	
15	Employee benefit programs other than on line 23 . . .	15		26	Seeds and plants	26	
16	Feed	16		27	Storage and warehousing . .	27	
17	Fertilizers and lime	17		28	Supplies	28	
18	Freight and trucking	18		29	Taxes	29	
19	Gasoline, fuel, and oil	19		30	Utilities	30	
20	Insurance (other than health)	20		31	Veterinary, breeding, and medicine	31	
21	Interest (see instructions)			32	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	21a		a	-----	32a	
b	Other	21b		b	-----	32b	
22	Labor hired (less employment credits)	22		c	-----	32c	
				d	-----	32d	
				e	-----	32e	
				f	-----	32f	
33	Total expenses. Add lines 10 through 32f. If line 32f is negative, see instructions ▶	33					
34	Net farm profit or (loss). Subtract line 33 from line 9	34					
	If a profit, stop here and see instructions for where to report. If a loss, complete lines 35 and 36.						
35	Reserved for future use.						
36	Check the box that describes your investment in this activity and see instructions for where to report your loss.						
a	<input type="checkbox"/> All investment is at risk.	b	<input type="checkbox"/> Some investment is not at risk.				

TCJA Changes Affecting Farming



TCJA Implications for Farms

- C-corporation Changes
 - Flat tax at 21% (for those in 15% an increase of 40%)
 - Dividends-received deduction percentage decreased to 65% from 80%
 - Corporate AMT is repealed for tax years beginning after Dec 31, 2017.
 - Old rates 15% (>0), 25% (>50,000), 34% (>75,000), and 35% (>10,000,000)

TCJA Implications for Farms

- Expensing and Depreciation
 - Section 179 increased to \$1 million with investment limit of \$2.5 million (2018) **(NC does not conform)**
 - \$1,020,000 with investment limit of \$2,550,000 for 2019
 - Made permanent and annually indexed for inflation
 - Qualified Real Property allowed
 - Roofs, HVAC, fire protection, security and alarm systems
 - SUVs limited to \$25,000 (\$25,400 for 2019)
 - Full size crew cab ½ Ton pickups with a short box are SUVs by definition.

Section 179 Expense Deduction

For Section 179 the property must be:

- Qualifying property that is new or used (not real property such as land or a multi-purpose ag structure)
- Acquired for use in a trade or business (actively farming or materially participating in a rental arrangement)
- Acquired by purchase

TCJA Implications for Farms

- First-year (Bonus) Depreciation
 - 100% first-year depreciation (Sept 27, 2017 – Dec 31, 2022) **Now allowed for new and used property**
 - 80% 2023
 - 60% 2024
 - 40% 2025
 - 20% 2026
 - Bonus sunsets after December 31, 2026

North Carolina doesn't conform to Bonus

TCJA Implications for Farms

- New Farming and Machinery Depreciation
 - Applies to property placed into service after December 31, 2017:
 - Cost recovery period is now 5 years for new machinery and equipment; used is still 7 years
 - Grain bins, fences, cotton ginning equipment, and land improvements are 7 year assets.
 - 200% declining balance is to be used on 3-, 5-, 7- and 10-year property
 - 150% declining balance on 15 and 20 year property

TCJA Implications for Farms

- Limits on Deduction of Business Interest
 - Beginning after December 31, 2017, every business, regardless of form, is generally subject to a disallowance of a deduction of net interest expense in excess of 30% of the business's adjusted taxable income.
 - MATI = EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization)
 - This is determined at the tax filer level.
 - However, for pass-through entities, the determination is made at the entity level.

Example: Interest Limitation

Gross farm receipts	\$32,000,000
Interest expense	(\$5,000,000)
Depreciation on cattle and equipment	(\$4,000,000)
Depreciation on greenhouse facility	(\$1,000,000)
Other farm expenses	(\$20,000,000)
Net taxable farm income	\$2,000,000
Add back interest and depreciation	\$10,000,000
Adjusted taxable income	\$12,000,000
Interest limit (30% x \$12,000,000)	\$3,600,000

TCJA Implications for Farms

- Limits on Deduction of Business Interest
 - An exemption from these rules applies for taxpayers with average gross receipts for a three-tax year period ending with the prior taxable year that do not exceed \$25 million.
 - Farming businesses can elect out if they use ADS to depreciate any property used in the farming business with a recovery period of ten years or more.
 - Single purpose structures (greenhouses/ poultry / hog houses)

TCJA Implications for Farms

- Modification of Net Operating Loss Deduction
 - Generally the carry-back provisions are repealed
 - Replaced with carry forward until used up but with deduction limited to 80% of taxable income.
 - For Farmers, the 5-year carry back is modified to 2-year carry-back and then any remaining NOL can be carried forward indefinitely.
 - For losses created in tax years beginning after December 31, 2017, the NOL deduction is limited to 80% of taxable income. Carryovers are subject to this limitation too.

TCJA Implications for Farms

- Domestic Production Activities Deduction (DPAD) is repealed
- DPAD replaced with Section 199A 20% Qualified Business Income deduction. (QBID)
- For tax professionals, QBID has created a lot of controversy with Cooperatives and Corporate grain merchandizers in particular and otherwise generally !!

Code Section 199A

- Income from Pass-Through Entities
 - For tax years beginning after December 31, 2017 and before January 1, 2026 a new deduction is added.
 - Sec. 199A “Qualified Business Income” (QBI), from Partnership, S-corp, LLC, sole proprietor is allowed to generally deduct 20% of QBI (farm profit) subject to W-2 wage limitations, except for sole proprietors, the greater of
 - 50% of W-2 wages with respect to the QBI
 - 25% of W-2 wages plus 2.5% of unadjusted basis of “qualified property” acquired in the tax year.

Code Section 199A - QBI

Qualified Business Income

- Farm net income (less coop dividends)
- Plus depreciation recapture on sales of farm assets
- Plus cash rent income (controlled grouping for QBI)
- Less any capital gain on sale of farm assets

- TIMBER income does not qualify as it generally is treated as capital gain income.

Code Section 199A - QBI

Qualified Business Income – Deduction

- Deduction on 1040 after itemized deductions
- Does not reduce Adjusted Gross Income
- Does not reduce self-employment tax
- Does reduce federal taxable income (20% reduction of business income from taxable income)

- Does not affect NC income as NC begins with AGI and the QBID is taken below AGI.

TCJA Implications for Farms

- Like-Kind Exchanges are now LIMITED
 - Generally, for tax years beginning after December 31, 2017, like-kind exchanges are going to be allowed for real property that is not held primarily for sale (inventory)
 - Therefore, in the future, trades of equipment and machinery will be a two-step transaction:
 - Sale of traded in item at trade allowance (FMV)
 - Purchase of new item (higher basis) can use Section 179 expense or Bonus depreciation to offset tax consequence of sale.

Example 1

- Old law, like kind exchange treatment was mandatory for a trade:
- In 2017, Joe traded a tractor with a FMV of \$60,000 and an adjusted basis of \$0 for a tractor with a fair market value of \$110,000, plus \$50,000 in cash.
 - Depreciation recapture was deferred, and the basis in Joe's replacement tractor was \$50,000 (\$0 basis in relinquished tractor, plus boot paid). Joe could generally use IRC § 179 to immediately expense \$50,000, the amount of boot paid in the transaction.

Example 2

- New law: In 2018, Joe “trades” a tractor with a FMV of \$60,000 and an adjusted basis of \$0, plus \$50,000 cash for a tractor with a fair market value of \$110,000.
- Joe must recognize \$60,000 in depreciation recapture. The basis in his new tractor will be \$110,000, the full purchase price of the new tractor. Joe can use Section 179 to expense this amount in 2018. If Section 179 is not available, he can use 100 percent bonus to capitalize and depreciate the full amount in 2018.

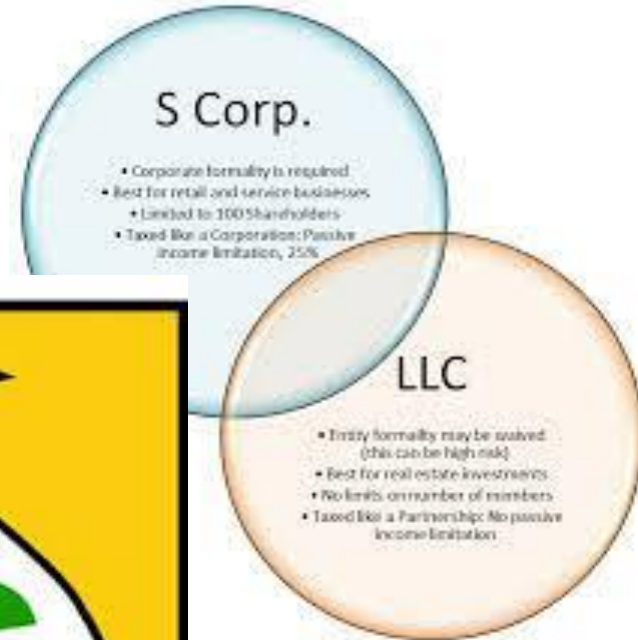
TCJA Implications for Farms

- Research and Experimentation expenses
 - Beginning for tax years after December 31, 2021, “specified R&E expenses” must be capitalized and amortized ratably over 5-year period beginning with the midpoint of the tax year in which these expense occur.

TCJA Implications for Farms

- Employer's Deduction for Fringe Benefit Expenses Limited
 - Entertainment expenses are disallowed
 - The current 50% business meals deduction limit now includes “in-house cafeteria” or otherwise on the premises of the employer.
 - Not clear how this will impact farmers at this time.
 - The exclusion of income for employees for this and other such benefits is retained.

Getting to the “Sweet Spot”



Tax Management

- Some tools work prior to year end.
- Some tools work after the tax year has passed.

Depreciation Options

- Be aware that this tool can result in over investment in vehicles, machinery, and equipment
- Depreciation is a tax deferral tool: it is recaptured when an asset is sold or traded
- Sec 179 (expensing) cannot create a business loss but can offset W-2 wages
- Bonus depr. can create a business loss

Prepaid Expenses

- Amount paid during the tax year for items that will be used in the following year.
- Must be a payment; not a deposit.
- Must be made for a valid business purpose.
- Must not materially distort income.

Prepaid Farm Expenses

- Farm-related (cash basis) taxpayers may deduct up to 50% of the cost of prepaid supplies and feed in the year of purchase rather than when the items is used.
- Farm-related taxpayer:
 1. Main home is on the farm,
 2. Principal business is farming, or
 3. A family member of someone who meets both 1 and 2 above.

Prepaid Supplies Expense

- The allowed deduction is 50% of the total deductible expenses (excluding prepaid amounts) for the tax year.
- Example: in 2018 you purchased and used \$100,000 of feed, seed, and fertilizer. At the end of the year you can prepay for up to \$50,000 of supplies that will be used in 2019. (Any amount above \$50,000 will be deductible in 2019.)

Exceptions

- Exception: no limit if you are a farm-related taxpayer and either of the following apply:
 1. The excess prepayment is due change in business operations due to extraordinary circumstances (flood, drought, etc.).
 2. Total prepaid expenses for prior 3 years is less than 50% of total deductible expenses for the same 3 year period.

Deferred Payment Contract

- A Deferred Payment Contract requires that the payment will be received in the year after the commodity is sold.
- Requirements:
 - Must be a bona fide arm's-length contract with the buyer.
 - Seller cannot have any right to the commodity after it is delivered.
 - Must avoid constructive receipt so contract must be in place before delivery.

Farm Income Averaging

- Takes advantage of unused or unfilled lower tax brackets from 3 prior years.
- Example: 2019 – Due to a sizable Insurance Disaster Program payments, taxable income is \$195,000 (24% tax bracket starts at \$168,400).

Farm Income Averaging

- Manage the tax bite by averaging with prior years' taxable income.
- 2016 – \$10,000 below beginning of 25% bracket.
- 2017 - \$15,000 below beginning of 25% bracket.
- 2018 - \$20,000 below beginning of 24% bracket.

Farm Income Averaging

- Move \$30,000 from 2019 and put \$10,000 additional income in 2016, 2017 and 2018 and save roughly \$3,000 in total tax.
- Income averaging does not reduce self-employment tax; net investment income tax; or phase-out of personal exemptions and itemized deductions

Farm Income Averaging

- Can use ordinary income as well as capital gains (all or any part).
- Elected Farm Income is from Schedule F or capital asset sales but not land.
- Individual, Partner, & S Corp Shareholder can use this provision (not a C-Corporation).
- Pay the decrease in income tax only.

Home Office Deduction

- Space in the home used as your principal place of business.
 - Can be a room
 - Can be an area that is not a separate room
 - Must be for exclusive and regular business use (not the kitchen or dining room table).
- There cannot be another principal place of business.

Home Office Deduction

Limited to gross income from the business use of home being greater than total business expenses.

If gross income is less than expenses, insurance, utilities and possible depreciation will be limited.

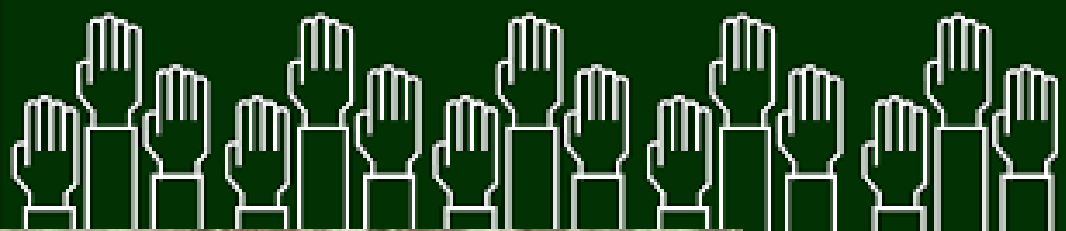
Safe Harbor since 2013 allows a \$5.00 / sq. ft. deduction up to 300 square feet of the home. (\$1,500 maximum)

Need to Increase Income ?

- Defer making expense payments until after January 1, be sure to talk to suppliers
- Accelerate Income into the current year
- Instead of electing to Expense Fertilizer and Lime, amortize under IRC § 180 for 5 years
- Use ADS (slower depreciation methods) to defer deductions
- Collect all custom work, rents and other amounts due you before the end of the year.
- Defer major repairs until next year (or at least paying for them)

TCJA Changes Affecting Individuals

Tax Reform affects all taxpayers.



Individual Changes

- Tax rates have changed:
 - 2017: 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%
 - 2018: 10%, 12%, 22%, 24%, 32%, 35%, and 37%
- Rate changes are effective for tax years beginning after December 31, 2017 and before January 1, 2026
- Estates and Trusts: 10%, 24%, 35% and 37%
 - At \$12,500 of taxable income goes to 37%

Tax Rate Comparison for MFJ

<u>Old Law</u>		<u>TCJA</u>	
Rate	Break Point	Rate	Break Point
10%	>\$0	10%	>\$0
15%	>\$19,050	12%	>\$19,050
25%	>\$77,400	22%	>\$77,400
28%	>\$156,150	24%	>\$165,000
33%	>\$237,950	32%	>\$315,000
35%	>\$424,950	35%	>\$400,000
39.6%	>\$480,050	37%	>\$600,000

Individual Changes

- Standard Deduction increased for tax years beginning after December 31, 2017 and before January 1, 2026
 - MFJ \$24,000 (\$20,400, 2019)
 - Head-of-Household \$18,000 (\$18,350, 2019)
 - Single / MFS \$12,000 (\$12,200, 2019)
 - Additional deduction amount for elderly or blind (\$1,300 or \$1,650 dependent upon filing status in 2019)

Individual Changes

- New measure of inflation index: now to use “chained CPI-U” (Consumer Price Index for Urban Individuals)
- Chained CPI-U generally grows at a slower pace because it takes into consideration that consumers substitute between goods in response to relative prices. (Slower Adjustment)

Individual Changes

- Personal Exemptions are SUSPENDED
 - For tax years beginning after December 31, 2017 and before January 1, 2026.
 - Reduces the exemption amount to zero.
 - 2017 was \$4,050 per exemption
 - 2018 was to be \$4,150 per exemption, but the TCJA zeroed it

Individual Changes

- Child Tax Credit
 - New law increases to \$2,000 from \$1,000 for each qualifying child under 17 years of age.
 - AGI phase outs apply, but now higher, MFJ \$400,000
 - Refundable amount increased to \$1,400 per qualifying child
 - SSN required for each child
 - Non-child dependent was added under the new law for an amount of \$500.

Better off Tax wise?

- It depends!! A family with two kids, all things equal may have a higher tax liability:
 - Old rules: 2018 Standard Deduction MFJ \$13,000 plus 4 X \$4,150 = \$29,600 Tax Free Income
 - New rules: 2018 Standard deduction only: \$24,000 Tax Free Income

Better off Tax wise?

Married Couple Filing Joint w/2 children

	Old Law	TCJA
• Adj Gross Inc	100,000	100,000
• Std Deduction	13,000	24,000
• Exemption	16,600	0
• Taxable Income	70,400	76,000
• Tax before Credit	9,608	8,739
• Child Tax Credit	<u>2,000</u>	<u>4,000</u>
• Tax Due	7,608	4,739

Better off Tax wise?

- You will not know the exact answer to your specific tax situation until you file your 2018 income tax return.
- The devil is truly in the details.

Individual Changes

- Capital Gains rates are retained:
 - 0%, 15%, and 20% rates
 - The new law maintains the breakpoints of the old law, but uses the chained CPI-U indexing for inflation for tax years after Dec. 31, 2017.
 - 2018: 15% breakpoint is \$77,200 MFJ
20% breakpoint is \$479,000 MFJ
- Capital Gain is the gain in excess of what you paid for an asset or investment.

Individual Changes

- Income from Pass-Through Entities
 - Sec. 199A “Qualified Business Income” (QBI), includes an estate and trust, from PTR, S-corp, LLC, sole proprietor is allowed to generally deduct 20% of QBI (farm profit) is calculated at the individual level subject to limitations.
 - Discussed earlier

Individual Changes

- Itemized Deduction Changes for tax years beginning after December 31, 2017 and before January 1, 2026:
 - A Taxpayer may deduct State, Local and foreign property taxes, and State and local income taxes to a cap of \$10,000 or \$5,000 (MFS)
 - Mortgage Interest is allowed subject to indebtedness limitations \$750,000 (\$375,000 MFS)
 - Home equity mortgage interest deduction is suspended.

Individual Changes

- Charitable Contribution Deduction Limitation Increased
 - Beginning for tax years after December 31, 2017 and before January 1, 2026, the contribution limit is increased to 60%.
 - Example: AGI = \$100,000, limit is now \$60,000, any carry over of excess contributions can be carried forward five years.

The rule for contemporaneous written acknowledgment (CWA) has been repealed for tax years beginning after December 31, 2016.

Individual Changes

- Charitable contribution from an Individual Retirement Account is still allowed under the TCJA
- Farmers still have the ability to make charitable contribution of commodities without include the distribution in income. (For example giving wheat to a church)

Suspended Deductions

- Alimony Deduction for QDROs created after December 31, 2018 (or QDRO significantly changed after 12/31/2018)
- Miscellaneous Itemized Deductions (2% floor)
- Moving Expense Reimbursements
- “Pease” Limitations on Itemized Deductions
- Moving Expenses Deduction
- Living Expenses of Members of CONGRESS

Repeal of OBAMACARE Individual Mandate after 12/31/2018

Suspended Deductions Cont.

- Itemized Deduction Changes (cont.)
 - Office deduction eliminated for investment purposes...(exclusive use to manage investments)
 - Unreimbursed employee expenses (travel, meals, uniform, job search, etc.)
 - Tax preparation expenses
 - Investment fees and expenses
 - Safe deposit box rental
 - Hobby expenses
 - Moving expenses unless a member of the military

Individual Changes

- Kiddie Tax Modified:
 - Beginning for tax years after December 31, 2017 taxable earned income is taxed at single individual rates; and
 - Taxable income from unearned sources (if > \$2,100 portfolio, capital gains, etc.) are taxed according to estate and trust income tax brackets.
 - Estates and Trusts: 10%, 24%, 35% and 37%
 - At \$12,500 of taxable income goes to 37%

Individual Changes

- Net Operating Losses (NOLs)
- For tax years beginning after December 31, 2017 and before January 1, 2026,
 - 80% of losses allowed
 - Excess farm losses (\$300,000) regarding USDA subsidies no longer applies.
 - The NOL is carried forward to subsequent tax years.
 - Farm NOLs are carried back two years, or, the farmer may elect to carry forward.

Individual Changes

- Personal Casualty and Theft Losses
- For tax years beginning after December 31, 2017 and before January 1, 2026
 - Are suspended, except for personal casualty losses incurred in a Federally-declared disaster area.
 - Hurricane Florence and Tropical Storm Michael in 2018 are examples
 - More than 34 counties in NC (FEMA Oct 26, 2018)

Doubling Up on Deductions

Can be useful:

- Property taxes: Make 2 payments in the same year in year (Jan. and Dec.)
- North Carolina estimated tax payments: make the January payment in December.
- Medical expenses
- Charitable contributions

Estate and Gift Tax Changes Post TCJA



Gift Tax

- Gift Tax Exclusion Amounts for tax years beginning after December 31, 2017 and before January 1, 2026:
 - Annual Exclusion \$15,000 (2019)
 - Exclusion amount is indexed for inflation but only moves in \$1,000 increments
 - Lifetime Exclusion amount is \$11,400,000 in 2019, \$22,800,000 for married folks.

Estate Tax

- Was not repealed but the estate tax credit was increased and annually indexed for inflation
- Step-up to FMV date of death is retained
- Estate Exclusion Amount for tax years beginning after December 31, 2017 and before January 1, 2026:
 - \$11.4 million (\$22.8 per married couple) for 2019
 - Estates and Trusts: 10%, 24%, 35% and 37%
 - At \$12,500 of taxable income rate is 37%
 - Meaning...if there is taxable income it is best to distribute out to beneficiaries.

Tax Planning for Succession

- Creating business entity (ies) can be useful to manage a transition plan.
 - LLC, Partnership, Sub-S corporations
 - C-corporations may be a choice to consider with the tax law change...do the analysis with competent advice.
 - Don't put land inside a corporation is a generally accepted
 - Create a management team transfer by developing the "bench" and have younger players bring complementary skills to the table.

Tax Planning for Succession

- Partnership/LLCs tax as partnerships
 - Consider using IRC § 736 and § 754 to minimize income tax consequences
 - § 736 allows the retiring partner to cash out over time, but not an installment contract, therefore no interest.
 - § 754 allows the partnership to “step-up” depreciable assets and depreciate
- Subchapter S corporations
 - The buyer typically wants to buy assets, the seller wants to sell stock.
 - Making a IRC § 336(e) election allows the best of both worlds, seller gets capital gains treatment, the buyer has assets to set up and depreciate.

Tax Planning for Succession

- Takes time and some money
- Requires a professional Team:
 - Accountant,
 - Lawyer,
 - Insurance and,
 - Creditors can be of assistance to facilitate the creating of a plan.
- The Same Professional Team can also help with the implementation of the plan over time.

Why It Is Important to Pay Taxes!

- It means you are making a profit! (The more taxes you pay, the more profit you are making.)
- You increase your Social Security Benefits when you retire through the payment of Self-Employment Taxes.
- You obtain disability and survivor benefits through the payment of Self-Employment Taxes as well.

Questions?

- Thank you for your attention!!

Guido van der Hoeven, EA

Extension Specialist / Senior Lecturer

Email: gvanderh@ncsu.edu

Phone: 919.515.9071

Fax: 919.515.6268